

Notice of Allowability

Application No.

09/837,714

Examiner

Danton DeMille

Applicant(s)

JAPUNTICH ET AL.

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment 7/9/2007 and interview 9/14/2007.
2. ☒ The allowed claim(s) is/are 33,35-42,44,46,49,50,55-59 and 64-68.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 8/27/07 & 9/12/07
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Karl Hanson on 14 September 2007.

The application has been amended as follows:

In claim 33, line 1, after "mask" and before the comma, --that has an exhalation valve secured thereto-- has been inserted. In line 5 of claim 33, the comma at the end of the claims has been replaced by a semicolon --;--. In the last line of paragraph (b) after "flap;" --and-- has been inserted. In the first line of paragraph (c) "exhalation valve" has been replaced by --valve seat--.

In claim 65, line 1, after "mask" and before the comma, --that has an exhalation valve secured thereto-- has been inserted. In the first line of paragraph (c) "exhalation valve" has been replaced by --valve seat--. In the second line of paragraph (c) "exhalation valve" has been replaced by --valve seat--.

In claim 66, line 1, after "mask" and before the comma, --that has an exhalation valve secured thereto-- has been inserted. In the first line of paragraph (c) "exhalation valve" has been replaced by --valve seat--. In the second line of paragraph (c) "exhalation valve" has been replaced by --valve seat--. In the third line of paragraph (c) the first occurrence of "is" has been replaced by --becomes--. Also in the third line of paragraph (c) before the word "mask" --flap is supported on the valve seat and when the-- has been inserted.

In the specification page 6, after line 17 a new paragraph has been inserted:

--FIG. 8 is a cross-sectional view of an exhalation valve 14 with the cover 50 in place.--

Information Disclosure Statement

It is noted that the Office Action that is listed on the 1449 is not a proper listing of prior art however, the Office Action has been considered by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

17 September 2007

/Danton DeMille/
Danton DeMille
Primary Examiner
Art Unit 3771